



Shoreline Master Program Guidelines

Summary Comparison of Invalidated and Proposed Replacement Guidelines WAC 173-26.

This document presents a comparison of the shoreline master program (SMP) guidelines as invalidated by the decision of the Shorelines Hearings Board (Path A) and proposed replacement guidelines resulting from negotiations among the parties to the case before the SHB. It is intended as a general guide to understanding key changes to the guidelines proposed as a result of the negotiations.

Brief Summary of Differences between Prior Version and New Proposed Draft Version of Chap 173-26, Shoreline Master Program Guidelines

The Draft guidelines begins with a significantly expanded statement of general policy goals for shorelines of the state followed by a new set of eleven governing principals. These sections contain statements about what the guidelines are intended to accomplish based on the provisions of the SMA as well as statements describing the limitations on regulatory authority. These were used as benchmarks in redrafting the guidelines and are intended to establish a foundation for consistent interpretation of the guidelines in the future.

Based on the governing principles the following general changes were made to the body of the document:

- More explicit acknowledgment throughout the document that there are legal limitations on the regulatory authority of state and local government with respect to private property.
- Protection of the shoreline environment is recognized as an essential statewide policy goal of the SMA and “No Net Loss of Shoreline Ecological Functions” is established as the standard of environmental protection for SMP regulations of future development on the shoreline. In general, greater reliance is placed on general standard of no net loss, less on prescriptive standards by environment designation, use or activity.
- Restoration of ecological functions where the shoreline environment is degraded as a result of past actions is established as a planning requirement for local government to address through non-regulatory means. The planning approach is intended to coordinate and prioritize public and private restoration efforts and promote use of available resources for restoration purposes. It is also intended to assure coordination between development and restoration activities related to the shorelines.

- While protection and restoration of the ecological functions necessary to support shoreline dependent wildlife is clearly recognized as part of the essential statewide policy goal and special attention is given to issues related to salmon and other priority species, the guidelines do not attempt to specifically address compliance with the Endangered Species Act and thereby there is nothing comparable to “Path B”.

- Provide clearer SMA/GMA relationship such as acknowledging it is local governments’ obligation to assure consistency, and that Ecology’s review is limited to the master programs’ consistency with SMA (NOT GMA).

For more information about the rule, visit Ecology's Web site at <http://aww.ecydev/programs/sea/SMA/guidelines/newguid.htm>.

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
PROCESS-RELATED TOPICS		
Relationship to comprehensive plan and other regulations	Describes approaches to integrate shoreline master program provisions with other local comprehensive plans and development regulations.	Essentially the same. Adds provision on Ecology’s role to clarify that Ecology will not be reviewing and approving comprehensive plans as a part of reviewing and approving SMPs
Use of scientific and technical information	<p>Requires local governments to prepare SMPs based on an analysis of all available and applicable scientific information, aerial photography, inventory data, technical assistance materials, manuals and services. Local governments must be prepared to identify:</p> <ul style="list-style-type: none"> (i) Scientific information and management recommendations on which SMP provisions are based; (ii) Assumptions and data gaps in the scientific information; and (iii) Risks to ecological functions associated with SMP provisions. <p>Where information conflicts or is inconsistent, the local government shall base SMPs on a reasoned, objective evaluation of the relative merits of the conflicting data. [200(2)(a)]</p> <p>Note: For critical areas, the rule references GMA requirement to include “best available science.”</p>	Essentially the same. The scientific and technical information that is to be used in preparation of the SMP is as established in 90.58.100. It is recognized that the GMA establishes the requirement for inclusion of best available science as applicable to critical areas and to the extent that such areas are located in SMA jurisdiction, these requirements should be coordinated.

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
Adaptive management	<p>Requires local SMPs to include:</p> <ul style="list-style-type: none"> • a mechanism for documenting project review actions in shoreline areas, and • a process for evaluating their cumulative effects on shoreline conditions. (The process could involve a joint effort by local and state agencies, Indian tribes and others). [190(2)(e)(iii)(D)] <p>Encourages local governments to undertake local monitoring and periodically update SMPs over time.</p>	<p>Requires local governments to monitor actions taken to implement the SMP and consider making changes when conditions and circumstances have changed and the policies of the SMA and SMP are not being effectively implemented or to improve management over time.</p>
Compliance assurance mechanism	<p>No specific statement is made addressing this issue. Shoreline permit review and enforcement procedures are included in existing chapter 173-27 WAC.</p>	<p>Includes notification that administrative procedures, whether included in the SMP or not, must conform to WAC 173-27, Permits and Enforcement. 190(2)(a)(iii).</p>
Approach to ecological protection and restoration	<p>The key performance standard used throughout the rule is to “protect and restore ecological functions and ecosystem-wide processes.” Local governments must prepare a characterization of shorelines in their jurisdiction and identify the important ecological functions. SMP provisions must be based on a comprehensive approach to protect and contribute to restoration of ecological functions. This may include analysis from a regional or watershed planning effort or a generalized analysis if a regional study is not available.</p> <p>Note: In setting shoreline regulations, local governments must consider the level of detail of inventory information and planning analysis. As a general rule, the less known about existing resources, the more stringent SMP provisions should be to avoid irreparable damage to shoreline resources. If there is a question about the extent or condition of an existing ecological resource, then SMP provisions shall be sufficiently restrictive to ensure that the resource is protected.</p>	<p>Protection of the shoreline environment and restoration of the degraded shoreline areas has been delinked throughout the documents.</p> <p>The key environmental performance standard used throughout the rule is “no net loss of shoreline ecological functions. SMP provisions must be designed to achieve this standard overall and on a case by case basis as development occurs.</p> <p>Local governments are required to plan for and foster the restoration of degraded shoreline areas in a comprehensive manner. These master program provisions should be designed to achieve overall improvements in shoreline ecological functions over time, when compared to the status upon adoption of the master program. The approach to restoration planning may vary significantly among local jurisdictions, depending on:</p> <ul style="list-style-type: none"> • The size of the jurisdiction; • The extent and condition of shorelines in the jurisdiction; • The availability of grants, volunteer programs or other tools for restoration; and, • The nature of the ecological functions to be addressed by restoration planning. <p>Master programs restoration plans shall consider and address the following subjects:</p> <ol style="list-style-type: none"> Identify degraded areas, impaired ecological functions, and sites with potential for ecological restoration; Establish overall goals and priorities for restoration of degraded areas and impaired ecological functions; Identify existing and ongoing projects and programs that are currently being implemented, or are assured of being

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
		<p>implemented in light of evaluation of funding in the foreseeable future, which are designed to contribute to local restoration goals;</p> <p>(iv) Identify additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources for those projects and programs;</p> <p>(v) Identify timelines and benchmarks for implementing restoration projects and programs and achieving local restoration goals;</p> <p>(vi) Provide for mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals.;</p>
Inventory requirements	<p>Requires that local governments collect all existing information and demonstrate how it was used in preparing the SMPs. Encourages local governments to work with resource agencies, regional resource planning efforts and Indian tribes. States that Ecology will provide, to the extent possible, services and resources for inventory work. Inventories must include:</p> <p>(i) Shoreline and adjacent land use patterns and transportation and utility facilities, including the extent of existing structures, impervious surfaces, vegetation and shoreline modifications in shoreline jurisdiction.</p> <p>(ii) Critical areas (as defined by GMA).</p> <p>(iii) Degraded areas and sites with potential for ecological restoration.</p> <p>(iv) Areas of special interest, such as priority habitats, rapidly developing waterfronts, clean-up sites, or eroding shorelines.</p> <p>(v) Conditions and regulations in shoreland and adjacent areas that affect shorelines, such as surface water management and land use regulations.</p> <p>(vi) Existing and potential shoreline public access sites, including public rights-of-way and utility corridors.</p> <p>(vii) General location of bank full width limits, channel migration zones, and flood plains.</p> <p>(viii) Gaps in existing information.</p> <p>(ix) Information to evaluate cumulative impacts.</p> <p>(x) Archaeological and historical information.</p>	<p>Requires local governments to collect information on shoreline use and environmental values as a basis for preparation of the SMP. Local governments must compile and use all available and relevant scientific information, aerial photography, inventory data, technical assistance materials, manuals and services.</p> <p>List of inventory issues is similar to prior version.</p>

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
Ecological analysis requirements	<p>Requires local governments to characterize ecological functions and ecosystem-wide processes for rivers, marine waters and lakes. The rule describes 3 steps: (1) Identify the processes and ecological functions within shoreline jurisdiction that have been significantly altered or impacted; (2) Assess the processes to determine their effect on shoreline systems present within a jurisdiction; (3) Develop the specific master program provisions necessary to protect and/or restore ecological functions and ecosystem-wide processes.</p> <p>The characterization may be done either:</p> <ul style="list-style-type: none"> • through participation in a regional (e.g., watershed or sub-basin) resource management effort, or • within the local jurisdiction using existing information. <p>The level of resource protection in the regulations must account for risks to the environment and cumulative impacts from development allowed by the master program.</p>	<p>Characterization requirements have been simplified and consolidated. A thorough understanding of the ecological functions and eco-system wide processes of the shorelines is required in order to prepare policies and regulations necessary to achieve no net loss of shoreline ecological functions.</p>
Cumulative impacts analysis	<p>Requires that local governments project ultimate full build-out for development allowed by proposed SMPs and address cumulative impacts caused by incremental development, such as residential bulkheads, residential piers, or runoff from newly developed properties.</p>	<p>Requires that development of the SMP include evaluation of the cumulative impacts of reasonably foreseeable future development on shoreline conditions in designing regulations to meet the no net loss of shoreline ecological functions standard...</p>
Preferred use analysis	<p>Requires local governments to conduct an analysis to determine the future demand for shoreline space and the methods to resolve potential use conflicts.</p>	<p>Essentially the same.</p>
ENVIRONMENT DESIGNATIONS		
Environment designations	<p>Requires local governments to classify shoreline areas into environment designations based on existing use patterns, the biological and physical character of the shoreline, and goals and aspirations of the community as expressed in comprehensive plans. Requires map of shoreline designation boundaries. Each environment must have a purpose statement, classification criteria, management policies, and regulations.</p> <p>Provides criteria to evaluate consistency between local environment designations and comprehensive plan elements</p>	<p>The overall section on environment designation is substantially the same. However it has been edited and reorganized to provide clarity and consistency with the principles.</p>

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
	<p>and regulations.</p> <p>Requires local governments to assign all shoreline areas environment designations consistent with established criteria. The criteria and management policies for <i>six</i> recommended environment designations are described below.</p>	
GENERAL PROVISIONS		
<p>Archaeological and historic resources</p> <p>Applies to resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered.</p>	<p>Requires SMPs to include policies and regulations to protect historic, archaeological, and cultural features and qualities of shorelines. SMPs may reference historic inventories or regulations and implement the following standards:</p> <p>(i) Require that developers and property owners immediately stop work and notify the local government, the office of archaeology and historic preservation, and affected Indian tribes <i>if anything of possible archaeological interest is uncovered during excavation.</i></p> <p>(ii) Require that permits issued in areas documented to contain <i>archaeological artifacts and data</i> require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes. [220(1)]</p>	<p>Requires SMPs to include policies and regulations to protect historic, archaeological, and cultural features and qualities of shorelines. SMPs may reference historic inventories or regulations and implement the following standards:</p> <p>(i) Require that developers and property owners immediately stop work and notify the local government, the office of archaeology and historic preservation, and affected Indian tribes <i>if archaeological resources are uncovered during excavation.</i></p> <p>(ii) Require that permits issued in areas documented to contain <i>archaeological resources</i> require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes. [220(1)]</p>
<p>Critical areas – principles</p> <p>The section applies to all Growth Management Act critical areas that lie within shoreline jurisdiction.</p>	<p>Principles to guide SMP provisions for critical areas include the statutory requirement to use scientific and technical information (SMA) and include “best available science” (GMA).</p> <p>The objective of shoreline management provisions for critical areas shall be the protection of existing ecological functions and ecosystem-wide processes and restoration of degraded areas to upgrade ecological functions and ecosystem-wide processes. Local governments should accomplish this on a comprehensive basis. [220(2)]</p>	<p>Principles are revised to clarify that the standards only apply to critical areas within SMA jurisdiction and that the standard for scientific information used in master programs is set 90.58.100. Provision is made for coordination with Best Available Science standard of GMA.</p>
<p>Wetlands</p>	<p>SMPs must include:</p> <p>Use regulations to achieve no net loss of wetland area and functions, including lost time when the wetland does not perform the function.</p> <p>A wetlands rating or categorization system based on the rarity, irreplaceability, or sensitivity to disturbance of a wetland and the functions the wetland provides. (May use Ecology Rating System manuals.)</p> <p>Requirements for buffer zones around wetlands adequate to</p>	<p>No Significant Change</p>

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
	<p>ensure that wetland functions are protected and maintained. Mitigation requirements based on a wetland rating system. Requirements for compensatory mitigation.</p>	
<p>Geologically hazardous areas</p>	<p>Requires local governments to prohibit new development or creation of new lots that would cause foreseeable risks to people or ecological functions during the life of the development.</p> <p>Prohibits new development in geologically hazardous areas that would require structural shoreline stabilization over the life of the development. Allows exceptions for cases where stabilization is needed to protect <i>any</i> allowed use. Allows stabilization structures to protect existing primary residential structures where other alternatives are infeasible, and impacts are mitigated. [220(2)(c)(ii)]</p>	<p>Requires local government to regulate development in Geologically Hazardous Areas to protect life and property while assuring no net loss of shoreline ecological functions.</p>
<p>Critical saltwater habitats</p> <p>Defined as “all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance, commercial and recreational shellfish beds, mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.”</p>	<p>Requires coordinated policies and regulations to protect and restore critical saltwater habitats. The “principles” section calls out specific inventory data needed, and defines eight specific management goals for local saltwater habitat plans.</p> <p>Path A requires that local governments work with state resource agencies and affected Indian tribes to “classify critical saltwater habitats and protect and restore seasonal ranges and habitat elements with which federal- and state-listed endangered, threatened, and priority species have a primary association and which, if altered, may reduce the likelihood that a species will maintain its population and reproduce over the long term.”</p>	<p>Substantially the same however that regulation of private development will address protection (no net loss) while restoration is a planning objective to be implemented by means other than regulation is clarified.</p>
<p>Critical freshwater habitats – riverine corridors</p> <p>Channel Migration Zone (CMZ)</p> <p>Flood hazard reduction</p>	<p>Defines general principles for managing riverine corridors. Directs local governments to manage riverine corridors on a comprehensive basis to protect and restore ecological functions and ecosystem-wide processes.</p> <p>CMZ: defines channel migration zone (CMZ) as where the channel has migrated or is likely to migrate. Except for “natural” and “rural conservancy” environment designations the CMZ does not include areas separated from the active channel by legally existing artificial channel constraints or by existing structures designed to withstand 100-year floods [see 020(8)].</p>	<p>Critical freshwater habitat provisions have been substantially simplified to address general habitat values, establish no net loss as the regulatory standard and require coordination with flood hazard and other requirements that directly effect freshwater habitats.</p> <p>Channel Migration Zone definition has been simplified</p> <p>"Channel migration zone (CMZ)" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its</p>

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
	<p>The Flood Hazard section of Path A requires that SMPs do not allow new development that significantly or cumulatively increases flood hazard or that is inconsistent with an approved comprehensive flood hazard management plan adopted after 1994.</p> <p>Requires that SMPs do not allow new development or new uses in shoreline jurisdiction, including the subdivision of land, that will require structural flood hazard reduction measures within the channel migration zone, except for:</p> <ul style="list-style-type: none"> • actions that protect or restore; • development consistent with a management plan directed toward protecting and restoring ecological functions; • forest practices in conformance with the Forest Practices Act; • existing and ongoing agriculture (provided that no new restrictions to channel movement occur); • bridges and utility structures where no feasible alternative exists; • repair and maintenance of an existing legal use; • development on an altered site where ecological functions are upgraded; • modifications to an existing structure or use provided that channel migration is not further limited; • development in urban areas where existing structures prevent channel movement; • Measures to reduce shoreline erosion where erosion rates are higher than natural conditions. Requires that the measure does not interfere with hydrological and geomorphological processes, and includes appropriate habitat restoration associated with the river or stream. This provision is intended to allow measures that protect property at the same time as restoring ecosystem-wide processes. [220(3)(c)(i)] <p>Requires that SMP flood hazard reduction provisions be based on watershed and comprehensive flood hazard management planning, give preference to non-structural measures, and protect and restore ecological functions.</p> <p>Allows new structural flood hazard reduction measures only when necessary to protect existing development and</p>	<p>surroundings.</p> <p>Criteria for delineation of the CMZ is generalized to allow greater local discretion based on local circumstances while assuring that life and property are protected as well as environmental values of the CMZ.</p> <p>Requires that SMPs do not allow new development or new uses in shoreline jurisdiction, including the subdivision of land, that will require structural flood hazard reduction measures within the channel migration zone, except for:</p> <ul style="list-style-type: none"> • Actions that protect or restore the ecosystem-wide processes or ecological functions. • Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules. • Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur. • Mining when conducted in a manner consistent with the environment designation and with the provisions of WAC 173-26-240 (3)(h) • Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected section of watershed or drift cell. • Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses. • Development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes. • Modifications or additions to an existing non-agricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions. • Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where existing structures prevent active channel movement and flooding. • Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
	<p>where other non-structural provisions are not feasible.</p> <p>New flood hazard reduction measures must be located landward of the CMZ unless no other alternative is feasible.</p>	<p>processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.</p>
Public access	<p>Directs local governments to base SMA public access provisions on the planning tied to public objectives and integrated to relevant comprehensive plan elements.</p> <p>SMPs must also include provisions to protect important views of the water and prohibits public access improvements that would cause significant ecological impacts. [220(4)]</p>	<p>Substantially the same. Includes reference to compliance with constitutional and other legal limitations and requirement that public access improvements not result in a net loss of shoreline ecological functions.</p>
Vegetation Conservation	<p>Establishes the objectives of protecting and restoring vegetation that supports shoreline ecological functions.</p> <p>Discusses the relationship between vegetation width and ecological functions, and suggests that for riverine shoreline environments where trees naturally grow, achieving the full suite of vegetation-related shoreline functions is related to a vegetated area of one mature site potential tree height in width.</p>	<p>Clarification added that vegetation conservation areas are not necessarily closed to use as long as no net loss of shoreline ecological functions standard is met</p> <p>Standards have been simplified to focus on no net loss.</p>
Water Quality	<p>Requires that SMPs ensure that new development does not cause ecological impacts resulting from alteration of water quality, quantity or flow characteristics. [220(6)] <i>Note: water quality provisions in the guidelines do not apply to or affect the right to withdraw groundwater or divert surface water pursuant to RCW 90.03.250 through 90.03.340 (water rights).</i></p>	<p>Essentially the same.</p>
SHORELINE MODIFICATIONS		
Shoreline Stabilization	<p>Requires local governments to place the following restrictions on shoreline stabilization measures:</p> <p>A. Do not allow new shoreline stabilization structures except to support or protect an existing or approved <i>use</i> or existing or approved <i>development</i> or for shoreline restoration or cleanup.</p>	<p>Section has been restructured for clarity and revised to focus on implementation of the the no net loss of shoreline ecological functions standard.</p> <p>“In order to avoid the individual and cumulative net loss of ecological functions attributable to shoreline stabilization, master programs shall implement the above principles and apply the following standards:</p>

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
	<p>B. New development should be located and designed to eliminate the need for concurrent or future shoreline stabilization.</p> <p>C. Allow no new nonwater-dependent development, including single family residences, that require new stabilization <i>unless</i>:</p> <ul style="list-style-type: none"> * a geotechnical report shows the structure will be threatened by erosion; * the erosion is not being caused by upland conditions; * non-structural measures are not feasible; and * the structures will not cause significant ecological impacts to priority species. <p>D. Do not allow stabilization structures for new development that would cause damage to other properties.</p> <p>E. Do not allow the creation of new lots that will require new shoreline stabilization for development to occur.</p> <p>F. Set back from steep slopes so that stabilization structures will not be needed during the life of the building.</p> <p>G. Do not construct new or expand an existing bulkheads for existing principal structures or uses unless a geotechnical analysis demonstrates the structure is in danger from erosion. The geotechnical analysis should evaluate vegetation enhancement as a means of reducing erosion.</p> <p>H. Replacement of existing residential bulkheads may be allowed, provided there is a demonstrated need to protect principle uses or structures. This does not necessarily need to be a geotechnical report. The replacement structure should be designed, located, sized, and constructed to minimize harm to ecological functions. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure, except that replacement bulkheads for single family residences occupied prior to 1992 may be placed immediately waterward of the existing structure.</p> <p>I. Limit the size of stabilization structures to the minimum necessary and use techniques to minimize harm to ecological functions. A geotechnical report is not necessary for the replacement of an existing stabilization structure protecting a single family residence.</p>	<p>(A) New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.</p> <p>(B) New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:</p> <p>(I) To protect existing principal structures: New or enlarged structural shoreline stabilization measures for an existing principal structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The erosion control structure will not result in a net loss of shoreline ecological functions.</p> <p>(II) In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply: The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves. The erosion control structure will not result in a net loss of shoreline ecological functions.</p> <p>(III) In support of water-dependent development when all of the</p>

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
	<p>J. Bulkheads must be designed to restore, as much as possible, ecological functions.</p> <p>K. Publicly financed shoreline erosion control measures must not restrict appropriate public access to the shoreline.</p> <p>L. New and replacement erosion control measures on feeder bluffs must avoid and/or minimize adverse impacts to sediment conveyance systems.</p> <p>[230(3)(a)]</p>	<p>conditions below apply:</p> <p>The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.</p> <p>Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.</p> <p>The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.</p> <p>The erosion control structure will not result in a net loss of shoreline ecological functions.</p> <p>(IV) To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW when all of the conditions below apply:</p> <p>Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.</p> <p>The erosion control structure will not result in a net loss of shoreline ecological functions., or</p> <p>(C) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.</p> <p>The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.</p> <p>Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.</p> <p>Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.</p> <p>Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.</p> <p>For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.</p> <p>(D) Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time</p>

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
		<p>frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.</p> <p>(E) When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions, limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.</p> <p>Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions; WAC 173-26-220(4). Where feasible, incorporate ecological restoration and public access improvements into the project.</p> <p>Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.</p> <p>(F) For erosion or mass wasting due to upland conditions, see WAC 173-26-220 (2)(c)(ii).</p>

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
Piers and docks	<p>Allows piers and docks only for water-dependent or water-dependent with mixed-use projects. Except for single-family residences, applicants must demonstrate the need for a pier or dock. All piers and docks must be restricted to the minimum size necessary, and be designed to avoid or minimize impacts.</p> <p>Requires that structures be made of materials that have been approved by state agencies.</p> <p>[230(3)(b)]</p>	Clarification that a dock associated with a single family residence is a water dependent use is added.
Fill	In-water fill should be allowed only as a conditional use and only for water-dependent uses, public access, cleanup and containment of contaminated sediments, or ecological restoration. [230(3)(c)]	Essentially the same
Breakwaters, jetties and groins	Breakwaters, jetties, and groins should be allowed only as a conditional use and shall be allowed only where necessary to support water-dependent use, public access, shoreline stabilization, or other specific public purpose. [230(3)(d)]	Essentially the same
Beach and dunes management	<p>Coastal master programs shall institute development setbacks from the shoreline to prevent impacts to the natural, functional, ecological and aesthetic qualities of the dune.</p> <p>Dune modifications must obtain conditional use permits unless they comply with an approved dune management plan that addresses grading, revegetation, and monitoring.</p> <p>Prohibits dune modification to protect views of the water except where views are obstructed for residences (or water-enjoyment uses) and where applicants can show the dunes did not obstruct views at the time of original occupancy.</p> <p>[230(3)(e)]</p>	Specific reference to requirement for a conditional use permit is removed. Compliance with no net loss of shoreline ecological functions standard is added.
Dredging	Requires that dredging and disposal avoid or minimize impacts. Maintenance dredging is restricted to established channels except to improve navigation. Dredging to obtain fill is discouraged and shall require a conditional use permit. Disposal of dredge material into a CMZ is discouraged and shall require a CUP. [230(3)(f)]	Compliance with no net loss of shoreline ecological functions standard is added

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
SHORELINE USES		
Conditional Uses	Uses that impair the public's use of the water or have a significant ecological impact, depending on location or design, require a conditional use permit (CUP). Examples include: fill waterward of the ordinary high water mark, dredge disposal in a CMZ, class IV general forest practices where shorelines are being converted to non-forestry uses, breakwaters, jetties, groins and weirs, development in critical saltwater habitats. [240(2)(b)]	Provisions revised for clarity and consistency with overall principles. Specific list of uses that may require CUP is removed.
Agriculture	<p>Requires that SMPs address new agricultural development that does not meet the definition of existing and ongoing agriculture.</p> <p>References the statutory definition of substantial development for agricultural uses, and clarifies that new shoreline master program provisions should not apply retroactively to existing agricultural uses.</p> <p>New development in support of agricultural uses must avoid impacts to shoreline environments.</p> <p>SMPs must include standards addressing setbacks of structures, water quality protection, environmental impacts, and vegetation conservation for new agricultural development, and clearing and grading.</p> <p>In river corridors with priority species, SMPs must be sufficient to allow no net loss of habitat viability. If the shoreline habitat has been degraded through development or agricultural practices, the master program shall include provisions that result in improved habitat over time.</p> <p>Clarifies that lands enrolled in set-aside programs (e.g., Conservation Reserve Enhancement Program, or CREP) are considered, for the purpose of SMA implementation, as existing and ongoing agriculture. This means that land may be returned to cultivation after the period of the set-aside agreement.</p> <p>[240(3)(a)]</p>	Section is completely revised to reflect 2002 legislation on applicability to agriculture. Where agriculture exists today, master programs may not significantly limit changes in agricultural use. New agricultural uses subject to requirement to assure no net loss of shoreline ecological functions and other applicable provisions of the SMP.
Aquaculture	Restricts aquaculture to where it would not significantly degrade ecological functions or conflict with navigation. Facilities shall be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or	Compliance with no net loss of shoreline ecological functions standard is added

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
	significantly impact the aesthetic qualities of the shoreline [240(3)(b)]	
Boating facilities	Requires that SMPs include provisions to reduce impacts to the shoreline environment, meet health and safety requirements, and protect navigation rights. Does not apply to docks serving four or fewer single-family residences. [240(3)(c)]	Compliance with no net loss of shoreline ecological functions standard is added
Commercial development	Requires that SMPs give preference to water-dependent uses and require ecological restoration and public access (where feasible) of all water-related and water-enjoyment uses. Nonwater-oriented uses are not permitted on the shoreline unless they provide public access and ecological restoration and either are part of a mixed-use project, are located where navigability or direct water access is limited, or provide significant public benefit. Prohibits new nonwater-dependent commercial uses from locating over water except where they are auxiliary to and in support of water-dependent uses. [240(3)(d)]	Provisions revised for clarity and consistency with overall principles. Compliance with no net loss of shoreline ecological functions standard is added and requirement for restoration is removed.
Forest practices	Refers to rules implementing the state Forest Practices Act as adequate management for commercial forest practices. When land is converted to other uses (including residential uses), significant vegetation removal, clearing and grading and development are not allowed, except for low intensity water-dependent uses and public access. [240(3)(e)]	Compliance with no net loss of shoreline ecological functions standard is added and requirement for restoration is removed.
Industry	Requires that industrial development not be located in areas with severe environmental limitations and be designed and located not to cause significant ecological impacts. New industrial development shall provide public access and environmental restoration where feasible. Allows nonwater-oriented industrial uses if the site is physically separated from the shoreline by another property or public right of way. [240(3)(f)]	Provisions revised for clarity and consistency with overall principles. Compliance with no net loss of shoreline ecological functions standard is added and requirement for restoration is removed.
In stream structures	Requires that in-stream structures provide for the protection and restoration of ecological functions and cultural resources. [240(3)(g)]	Provisions revised for clarity and consistency with overall principles. Compliance with no net loss of shoreline ecological functions standard is added and requirement for restoration is removed.

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
Mining	<p>Prohibits mining that would result in short-term or long-term significant ecological impacts to shoreline ecological functions. Where mining is allowed, it must avoid impacts to fish and wildlife habitat. Mining activities must comply with the Surface Mining Reclamation Act.</p> <p>Prohibits removal of sand and gravel from areas waterward of the ordinary high water mark unless a hydrogeological and biological study determines that the extraction will not significantly degrade natural processes or habitat.</p> <p>A conditional use permit shall be required for mining waterward of the CMZ. In locations where gravel removal has been allowed in the past, any future authorization to continue shall be based on studies as required above. [240(3)(h)]</p>	<p>Section is substantially revised. The provision states “A shoreline master program should accomplish two purposes in addressing mining. First, identify where mining may be an appropriate use of the shoreline, which is addressed in this section and in the environment designation sections above. Second, ensure that when mining or associated activities in the shoreline are authorized, those activities will be properly sited, designed, conducted, and completed so that it will cause no net loss of ecological functions of the shoreline.” Performance standards are established for mining to address the above requirements.</p>
Recreational development	<p>For GMA jurisdiction, states that SMP recreation policies shall be consistent with level of service standards of the local comprehensive plan. Recreational development should provide for a spectrum of needs.</p> <p>SMPs must give preference to water-dependent recreation as a first priority and water-related and water-enjoyment recreational uses as a second priority.</p> <p>Non-water-oriented uses should be discouraged and, where allowed, include public access and ecological protection and restoration. SMPs must mitigate for impacts of recreation development, including water-dependent facilities.[240(3)(i)]</p>	<p>Provisions revised for clarity and consistency with overall principles. Compliance with no net loss of shoreline ecological functions standard is added</p>
Residential development	<p>Requires that SMPs include shoreline setbacks, density regulations, bulkhead restrictions, vegetation conservation requirements, and on-site sewage system standards for residential uses and development, including single family residences.</p> <p>SMPs must implement the following guidelines:</p> <ul style="list-style-type: none"> • New residential development shall be set back from steep slopes so that bluff walls and other stabilization structures are not required to protect property; • New over-water residences (including floating homes) shall be prohibited; 	<p>Section is substantially revised as follows.</p> <p>Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development also includes multifamily development and the creation of new residential lots through land division.</p>

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
	<p>New multiunit residential development should provide public access; Piers, docks, breakwaters, jetties, groins, and weirs allowed in residential developments must afford the best possible protection to priority species and shoreline processes;</p> <ul style="list-style-type: none"> • Vegetation removal shall be limited to the minimum necessary to accommodate the primary structures; • Where an existing legally created lot is not sufficient to accommodate development, apply mitigation sequence; • When new lots are created, ensure that the lots are sized and configured so that intended development may occur without significant ecological impacts. • Do not allow the creation of new lots that would require shoreline stabilization measures to protect the resulting development. • When land is converted to residential use from less intensive land use, ensure that new lots are sufficient in size and configuration to allow protection of ecological functions. (For example, prevent creation of new lots that would require structural shoreline stabilization or deviation from vegetation conservation standards.) <p>[240(3)(j)]</p>	<p>Master programs shall include policies and regulations that assure no net loss of shoreline ecological functions will result from residential development. Such provisions should include specific regulations for setbacks and buffer areas, density, shoreline armoring, vegetation conservation requirements, and, where applicable, on-site sewage system standards for all residential development and uses and applicable to divisions of land in shoreline jurisdiction.</p> <p>Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. (See RCW 90.58.100(6).)</p> <p>New over-water residences, including floating homes, are not a preferred use and should be prohibited. It is recognized that certain existing communities of floating and/or over water homes exist and should be reasonably accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property. New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter.</p> <p>Master programs shall include standards for the creation of new residential lots through land division that accomplish the following:</p> <ul style="list-style-type: none"> (i) Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots. (ii) Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions. (iii) Implement the provisions of WAC 173-26-210 and 173-26-220.

ISSUE OR TOPIC	Path A (Part III) Provisions	Draft Guidelines Provisions
Transportation	<p>Requires that transportation facilities be located, designed and constructed to have the least possible impact on fragile shoreline features and ecological functions.</p> <p>Parking facilities shall only be allowed in support of a preferred use.</p> <p>Requires restoration of ecological functions as a condition of new and expanded nonwater-dependent transportation and parking facilities.</p> <p>[240(3)(k)]</p>	<p>Provisions revised for clarity and consistency with overall principles. Compliance with no net loss of shoreline ecological functions standard is added and requirement for restoration is removed.</p>
Utilities	<p>Requires that utility facilities be located, designed and constructed to have the least possible impact on ecological functions. Prohibits non-water oriented utility production and processing facilities unless no other feasible option is available. Underwater pipelines and cables should be discouraged except where no other feasible alternative exists. [240(3)(l)]</p>	<p>Provisions revised for clarity and consistency with overall principles. Compliance with no net loss of shoreline ecological functions standard is added</p>
SHORELINES OF STATE-WIDE SIGNIFICANCE		
Shorelines of State-wide Significance	<p>Describes the SMA concepts of use preference and optimum implementation for Shorelines of Statewide Significance. Presents policy framework for Shorelines of Statewide Significance to define the statewide interest, preserve resources for future generations, set use priorities, protect resources of statewide importance, and achieve comprehensive plan consistency.[250]</p>	<p>Essentially the same</p>